

§ 214.305

provide housing counseling to at least the required workload of clients every year, whether or not the agency receives HUD funding.

§ 214.305 Agency profile changes.

Participating agencies must notify HUD within 15 days when any of the following occurs:

(a) The agency loses or changes its tax-exempt, nonprofit status.

(b) The agency no longer complies with local and state requirements.

(c) Changes occur in any of the items below:

(1) Address(es) of the agency's main office and the address(es) of its branches and affiliates;

(2) Staff personnel responsible for the Housing Counseling program, such as the housing counselors and management staff;

(3) Telephone numbers of the main office, affiliates, and branches; or

(4) Any other aspect of the agency's purpose or functions that may impair its ability to comply with these regulations or the applicable grant agreement (e.g., lack of qualified housing counselors).

§ 214.307 Performance review.

(a) HUD may conduct periodic on-site or desk performance reviews of all participating agencies.

(b) The performance review will consist of a review of the participating agency's compliance with all program requirements, including applicable civil rights requirements, and the agency's level of success in delivering counseling services.

§ 214.309 Reapproval and disapproval based on performance review.

Based on the performance review, HUD may determine whether to renew the approval unconditionally or conditionally, temporarily change status to inactive, or terminate approval or participation of the agency.

(a) *Unconditional Reapproval.* If the agency is in full compliance with the performance criteria of this part, HUD may reapprove the agency unconditionally for up to 3 years.

(b) *Conditional Reapproval.* If the agency fails to meet the performance criteria, but the failure does not seri-

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ously impair the agency's counseling capability as required in this part, HUD may extend the agency's approval or participation for up to 120 calendar days.

(c) *Inactive status.* HUD may temporarily change an agency's status to inactive, as provided in § 214.200.

(d) *Follow-up Review.* HUD may conduct a follow-up review to determine if the deficiencies have been corrected.

(e) *Termination of HUD Approval.* When HUD determines that the agency's program deficiencies seriously impair the agency's ability to comply with this part, HUD may terminate approval or participation of the agency immediately.

(f) *Appeal.* If HUD does not reinstate the approval, or terminates participation, the agency may file an appeal, as prescribed under § 214.205.

§ 214.311 Funding.

(a) *HUD funding.* HUD approval or program participation does not guarantee funding from HUD. Funding for the Housing Counseling program depends on appropriations from Congress and are awarded competitively under federal and HUD regulations and policies governing assistance programs, including the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545 *et seq.*). If funds become available that are to be competitively awarded, HUD will notify the public through a Notice of Funding Availability (NOFA) in the FEDERAL REGISTER and via the Internet or other electronic media.

(b) *Local funding sources.* HUD recommends that approved agencies seek and secure funding from funding sources that may include local and state governments, private foundations, and lending or real estate organizations. Agencies must assure that such arrangements do not violate the provisions regarding conflicts of interest described in § 214.303(e).

§ 214.313 Housing counseling fees.

(a) Participating agencies may charge reasonable and customary fees for housing education and counseling services, as long as the cost does not create a financial hardship for the client. An agency's fee schedule must be

posted in a prominent place that is easily viewed by clients, and be available to HUD for review.

(b) Agencies must inform clients of the fee structure in advance of providing services. Clients cannot be charged for client intake.

(c) If any agency chooses to charge fees, the agency must conform to the following guidelines:

(1) Provide counseling without charge to persons who cannot afford the fees;

(2) Fees must be commensurate with the level of services provided;

(3) Agencies may not impose fees upon clients for the same portion of or for an entire service that is already funded with HUD grant funds.

(d) The agency may also be reimbursed from clients for the direct cost of obtaining copies of clients' credit reports from credit reporting bureaus if this does not cause a hardship for the client. In cases where the participating agency receives a discount for the cost of credit reports, this discount must be passed on to the client.

(e) Lenders may pay agencies for counseling services, through a lump sum or on a case-by-case basis, provided the level of payment does not exceed a level that is commensurate with the services provided, and is reasonable and customary for the area, and does not violate requirements under the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*). These transactions and relationships must be disclosed to the client as required in §214.303(g).

§214.315 Recordkeeping.

(a) *Recordkeeping system.* Each participating housing counseling agency must maintain a recordkeeping system. The system must permit HUD to easily access all information needed for a performance review. This system must meet the requirements of 24 CFR 1.6, 24 CFR 84.21, and 24 CFR part 121.

(b) *File retention requirements.* Financial records, supporting documents, statistical records and all other pertinent records, both electronic and on paper, shall be retained for a period of 3 years from the date the case file was terminated for housing counseling. If the housing counseling agency is a re-

cipient of a HUD housing counseling grant, then the client files for the housing counseling grant year must be retained for 3 years from the date the final grant invoice was paid by HUD.

(c) *Grant activities.* Recipients of HUD housing counseling grants are required to report activities under the grant in a format acceptable to HUD and within the designated time frames required by the applicable grant agreement.

(d) *Race, ethnicity, and income data.* Participating agencies must maintain current and accurate data on the race, ethnicity, and income of their counseling clients and education participants.

(e) *Client file.* The housing counseling agency must maintain a separate confidential file for each counseling client to document the action plan and the services provided to the client, as described in §214.300. For all counseling, except for HECM counseling, the client file must include an action plan. The client file may be for an individual or household or for a group of clients with the same housing need.

(f) *Group education file.* The housing counseling agency must maintain a separate confidential file for each course provided. This file must contain a list of all participants, their race, ethnicity and income data, course title, course outline, instructors, and date of each course.

(g) *Confidentiality.* Participating agencies must ensure the confidentiality of each client's personal and financial information, including credit reports, whether the information is received from the client or from another source. Failure to maintain the confidentiality of, or improper use of, credit reports may subject the agency to penalties under the Fair Credit Reporting Act (14 U.S.C. 1681 *et seq.*).

(h) *Termination of services.* The housing counseling agency must document in the client's file termination of housing counseling. Termination occurs or may occur under any of these conditions:

(1) The client meets his or her housing need or resolves the housing problem;

(2) The agency determines that further housing counseling will not meet